

THOMAS L. GAMBARO
P.O. Box 14741
Portland, Oregon 97293-0741
503-544-0589 mobile
thom.gambaro@gmail.com
Defendant for U.S. Patent No. 5,332,322

Filed
RECORDED 10 JUN 24 12:49 USDC-ORP *CP*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

FLIR SYSTEMS, INC., an Oregon
corporation,

Plaintiff,

v.

THOMAS L. GAMBARO, an individual;
and U.S. Patent No. 5,332,322

Defendants.

Case No. CV 10-0231-BR

DEFENDANT
THOMAS L. GAMBARO AND
U.S. PATENT NUMBER 5,332,322
COUNTERCLAIMS TO FLIR
COMPLAINT

DEMAND FOR JURY TRIAL

COUNTERCLAIM
DECLARATORY JUDGMENTS OF '322 PATENT INFRINGEMENT

A. U.S. Patent Number 5,332,322 titled "ERGONOMIC THUMB-ACTUABLE KEYBOARD FOR A HAND GRIPPABLE DEVICE", Claim One through Claim Three, and Claim Five are infringed by FLIR Systems Inc. with nine FLIR Accused Devices that include the FLIR i5 Thermal Imaging Camera, FLIR i7 Thermal Imaging Camera, FLIR b-40 Thermal Imaging Camera, FLIR b-50 Thermal Imaging Camera, FLIR b-60 Thermal Imaging Camera, FLIR i-40 Thermal Imaging Camera, FLIR i-50 Thermal Imaging Camera, FLIR i-60 Thermal Imaging Camera and FLIR infra CAM SD.

DEFENDANT THOMAS L. GAMBARO AND U.S. PATENT NUMBER 5,332,322
COUNTERCLAIMS TO FLIR COMPLAINT
Page 1 of 7

B. Each of the FLIR Accused Devices that are the i5, i7, b-40, b-50, b-60, i-40, i-50, I-60, and infra CAM SD contain each and every element of U.S. Patent Number 5,332,322 Claim 1-3 and 5.

C. Each of the FLIR Accused Devices that are the i5, i7, b-40, b-50, b-60, i-40, i-50, I-60, and infra CAM SD contain the equivalent of each and every element of U.S. Patent Number 5,332,322 Claim 1-3 and 5.

D. Each FLIR ____ Accused Device below are to be individually examined (i5, then i7 et al.) in turn for each of the following elements for each Accused Device individually:

1. The FLIR ____ Accused Device is a hand-held device?
2. The FLIR ____ Accused Device contains an electronic system?
3. The FLIR ____ Accused Device contains a keyboard?
4. The FLIR ____ Accused Device has a keyboard capable of entering information?
5. The FLIR ____ Accused Device has an electronic system controlled by a keyboard?
6. The FLIR ____ Accused Device is a hand-held device to make a keyboard entry?
7. The FLIR ____ Accused Device is a hand-held device with a housing?
8. The FLIR ____ Accused Device has a housing that contains an electronic system?
9. The FLIR ____ Accused Device has a housing with a grippable portion?
10. The FLIR ____ Accused Device is a device that can be held in one hand?

11. The FLIR __ Accused Device is a device held in one hand with the thumb free?
12. The FLIR __ Accused Device allows the thumb to be free to move?
13. The FLIR __ Accused Device lets the thumb move to predetermined positions?
14. The FLIR __ Accused Device lets the thumb move when the device is held?
15. The FLIR __ Accused Device has a housing that contains a concavity?
16. The FLIR __ Accused Device has a housing that contains a concave area?
17. The FLIR __ Accused Device has a concavity at the key-actuation positions?
18. The FLIR __ Accused Device has a thumb-associable cluster of keys?
19. The FLIR __ Accused Device has three or more keys forming a keyboard?
20. The FLIR __ Accused Device has a keyboard in a concavity?
21. The FLIR __ Accused Device has a plurality of keys in a cluster of at least three?
22. The FLIR __ Accused Device allows the thumb to selectively actuate keys?
23. The FLIR __ Accused Device allows the thumb to move from side to side?
24. The FLIR __ Accused Device allows the thumb to make lateral movements?
25. The FLIR __ Accused Device allows the thumb to move up and down?
26. The FLIR __ Accused Device allows the thumb to make endo movements?

27. The FLIR __ Accused Device allows the thumb to move lateral and endo?
28. The FLIR __ Accused Device allows the thumb to select and actuate keys?
29. The FLIR __ Accused Device allows the thumb to make combined movements?
30. The FLIR __ Accused Device allows the thumb to move inside a concavity?
31. The FLIR __ Accused Device lets the thumb move inside concave areas?
32. The FLIR __ Accused Device allows keys to activate to enter information?
33. The FLIR __ Accused Device allows information to enter an electronic system?
34. The FLIR __ Accused Device lets information remain in an electronic system?
35. The FLIR __ Accused Device allows information to be deleted from the system?
36. The FLIR __ Accused Device allows the thumb to move in a cone of motion?
37. The FLIR __ Accused Device lets the thumb grip at the base of the thumb?
38. The FLIR __ Accused Device lets the thumb grip at the thenar eminence?
39. The FLIR __ Accused Device allows the thumb to be selectively movable?
40. The FLIR __ Accused Device has selectively actuation angular offset keys?
41. The FLIR __ Accused Device has angularly offset keys selective by a thumb?
42. The FLIR __ Accused Device lets the thumb activate offset keys with lateral?

43. The FLIR ___ Accused Device lets the thumb activate offset keys with endo?
44. The FLIR ___ Accused Device lets a thumb move to activate offset keys lateral?
45. The FLIR ___ Accused Device lets a thumb move to activate offset keys endo?
46. The FLIR ___ Accused Device lets combined movements activate offset keys?
47. The FLIR ___ Accused Device has angularly offset keys to enter data in a system?
48. The FLIR ___ Accused Device has offset keys connected to an electronic system?
49. The FLIR ___ Accused Device has clusters of offset keys in the system?
50. The FLIR ___ Accused Device has a keyboard with a angular offset key system?
51. The FLIR developed US Patent No. 5,332,322 technology independent of '322?
52. The FLIR developed US Patent No. 5,332,322 technology dependent of '322?
53. The FLIR design team developed U.S. Patent No. 5,332,322 technology?
54. The FLIR engineering team developed U.S. Patent No. 5,332,322 technology?
55. The FLIR marketing team sold U.S. Patent No. 5,332,322 technology?
56. The FLIR marketing team advertised U.S. Patent No. 5,332,322 technology?
57. The FLIR Systems Inc. has infringed U.S. Patent No. 5,332,322 technology?

DAMAGES TO BE DETERMINED BY JURY

B. The Court enter judgment against the Plaintiff on patent infringements of each and every FLIR Accused Device for infringement of the '322 Patent including attorney fees and costs.

PRAYER FOR RELIEF

C. The Court enter judgment against Plaintiff on and dismiss with prejudice, each claim of the COMPLAINT FOR DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF PATENT in favor of the Defendant.

DECLARATORY JUDGMENTS FOR INFRINGEMENT DAMAGES

A. Damages for infringement of U.S. Patent Number 5,332,322 titled "ERGONOMIC THUMB-ACTUABLE KEYBOARD FOR A HAND GRIPPABLE DEVICE" based on the sales of FLIR Accused Devices that are disclosed during discovery for the i5, i7, b-40, b-50, b-60, i-40, i-50, I-60, and infra CAM SD contain each and every element of U.S. Patent Number 5,332,322 Claim One through Claim Three and Claim Five.

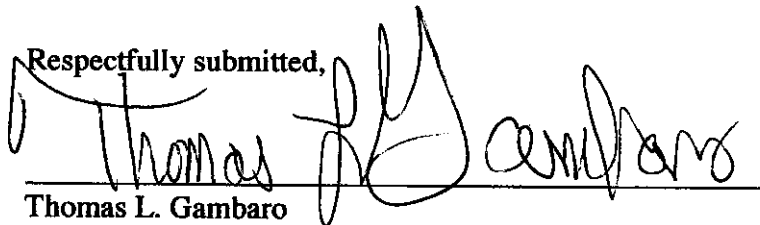
JURY DEMAND

B. The Defendant THOMAS L. GAMBARO, US Patent No. 5,332,322 and PATENT ENFORCEMENT COMPANY demands a trial by jury.

June 24, 2010

By:

Respectfully submitted,



Thomas L. Gambaro
PATENT ENFORCEMENT COMPANY
P.O. Box 14741
Portland, Oregon 97293-0741
Telephone: 503-544-0589
Email: thom.gambaro@gmail.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 24, 2010, a true copy of the foregoing **DEFENDANT THOMAS L. GAMBARO AND U.S. PATENT NUMBER 5,332,322 COUNTERCLAIMS TO FLIR COMPLAINT** was served to the following counsel by hand delivery, electronic filing via email with electronic signature.

Susan D. Marmaduke, OSB 841458

susan.marmaduke@harrang.com

Sivhwa Go, OSB 033252

hwa.go@harrang.com

HARRANG LONG GARY RUDNICK P.C.

1001 SW FIFTH AVENUE, 16TH FLOOR

PORTLAND, OREGON 97204

Telephone: 503-242-0000

Facsimile: 503-241-1458

William A. Brewer III, *Admitted Pro Hac Vice*

wab@bickelbrewer.com

Michael J. Collins, *Admitted Pro Hac Vice*

mjc@bickelbrewer.com

Farooq A. Tayab, *Admitted Pro Hac Vice*

fat@bickelbrewer.com

BICKEL & BREWER

4800 Commercial Bank Tower

1717 Main Street

Dallas, TX 75201-4612

Telephone: 214-653-4000

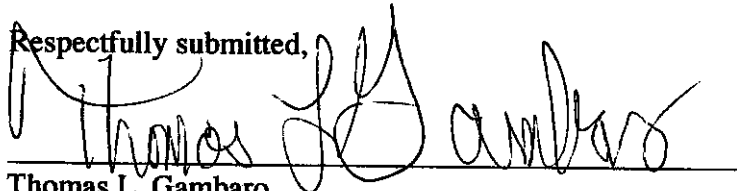
Fax: 214-653-1015

Attorneys for Plaintiff FLIR Systems, Inc.

June 24, 2010

By:

Respectfully submitted,



Thomas L. Gambaro

PATENT ENFORCEMENT COMPANY

P.O. Box 14741

Portland, Oregon 97293-0741

Telephone: 503-544-0589

Email: thom.gambaro@gmail.com